

Exhibit No. 1Date 2-5-07Bill No. SB 287

My name is Winter Mickelberry and I am standing here in support of Senate Bill 287. My main support is for the newly added sections <sup>14</sup>15 and <sup>15</sup>16 which will require cooperation between the coroner, medical examiners, county attorney and procurement organization.

On September 30, 2004 at about 9:30 pm I received the most devastating phone call in my life. I had been working at my night job and had returned home to find all the lights on in the house and my son and husband at the time gone. When I check my messages on my phone my heart sank, it was "Why aren't you answering your phone? Brian's on his way to the hospital he isn't breathing." I didn't know what to do, a million things were running through my head. He must have had an allergic reaction to something. They had just been at my job to bring me dinner and he was doing fine. I was trying to think of things he had eaten while they were visiting me. When I called my husband, Troy the local marshal answered his phone and told me to come to the station. I was going there to pick up my husband so we could drive to the hospital together. When I got there they were taking Jason out of the police car and Troy said into his radio that he had the suspect in custody and Jason yelled out I hit him, I hit him. After this the rest is mostly a blur. I went to the hospital and my little boy was lying in that huge bed. I was so helpless there was nothing I could do. This was the worst feeling in my life to know that my life was lying there in that bed and none of the doctors could tell me that he was going to be fine. In fact there was really nothing they could do either so they were flying him to Billings.

About 2 am we finally made it to Billings and Brian was taken away to have some more test and cat scans. When I finally was able to reunite with Brian in his room the news was very grim. His brain was so swollen that they didn't think he would make it much longer. My family and I went over and started talking to him and his vital signs started to get better. I knew how strong my boy was and when it looked as though he was getting better I just knew god was going to give us a miracle and he was going to live. This however didn't last very long. They ran some more test on Brian gave him some more cat scans. The forensic pathologist came in and took pictures and videos of his body so they would have these for evidence. Then the time came that the doctor and neurologist wanted to do one final test to see if there was any brain activity left. They put ice cold water in his ear and there was not movement from Brian. This was it, they officially called my son brain dead and there was nothing left to do. I had already known what they were going to say, you could tell by looking in Brian's eyes that he was gone. His eyes had gone from the vibrant blue full of life to a grey cloudy color that had no sparkle what so ever. I think this is the hardest picture to get out of my mind and I will have to live with it the rest of my life. I had to watch the life slip from my son through his eyes.

After the test Dr. Starr came over and talked with me and my family. He had mentioned organ donation and wonder if I would want to donate Brian's organs. This thought had never crossed my mind. I am an organ donor and so is my family, but I never thought I would have to make this decision for my son. The only question I had was whether or not I would know where his organs went and who they went to. I was told no, but they would send my information so that the recipients could contact me if they wanted. That was all I needed. The possibility of meeting someone that my son saved was enough for me. They immediately went to work taking samples and trying to find matches. The somberness started to lift from the room and we all knew that Brian would be saving some other children.

Then Dr. Starr came into the room with tears. The Gallatin County Attorney had stopped the process stating that he needed all of Brian for evidence and that the Missoula crime lab would be performing the autopsy. This was devastating. How could someone stop this? I am the mother I should have the final say in what happens to my son, not someone I have never met. My father called the Gallatin County Attorney to see if he could change his mind. He still said no. Dr. Starr got on the phone and was crying begging the County Attorney to change his mind. Dr. Starr told him that there was enough evidence that they did not need to stop the organ donation. The Gallatin County Coroner called the County Attorney twice asking him to reconsider. But again he said no, stating that the Missoula crime lab needed the body intact. My father had offered to pay to fly Dr Dale from Missoula to Billings but the Gallatin County ~~Coroner~~ <sup>Attorney</sup> told my father that Dr. Dale did not work that way.

Brian's organs were starting to fail and there was nothing we could do. There was a doctor, a county

coroner, a forensic pathologist, and a grand father that all called the Gallatin County Attorney to try and change his mind. The Yellowstone County Coroner was 10 minutes away from the hospital and could have been in the room while they harvested the organs and kept record of everything. They all told the Gallatin County ~~Coroner~~ <sup>Attorney</sup> that they had enough evidence for trial. Not only that but Jason who caused all of this had confessed to everything that had happened.

Because the Gallatin County Attorney is very power hungry there are up to five children that could have been saved because my son was strong and healthy. My grieving has now also been pasted to up to five mothers because my son was not given to opportunity to save there children. These new sections in Senate Bill 287 will force anyone trying to stop a donation to actually work with everyone to make sure that all possibilities are tried before denying a mothers last wish. Not only do they have to work together, but if one denies that organ donation then they have to be responsible for that decision and put it in writing why they made that decision. I still have not been able to talk with the Gallatin County Attorney nor has he tried at all to explain his actions or to say he was sorry. I made sure he did not try my son's case. Because he did not represent my son while he was dying I did not want him to represent my son in trial.

I have also learned that had Dr. Dale from Missoula actually been contacted he would have told the Gallatin County attorney to let the donation happen. I believe that only a selfish man would deny someone the gift of life.

Had this law been in effect 29 months ago, my son would still be living inside of someone else. He would have saved up to 5 children and I would have the piece of mind knowing that up to 5 mothers are not living with the same pain that I do everyday. All I can ask now is that you please pass this law which will require that coroner, medical examiner, county attorney, and procurement organization to work together. One person should not have the ability to stop such a wonderful act.

Thank you for taking the time to listen to my story.